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COMMISSION ON HUMAN RIGHTS
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Agenda item 10 (a)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Argentina*, Australia, Austria, Belgium*, Burundi*, Canada, Costa Rica, Denmark*, Finland, Germany, Hungary, Ireland*, Italy, Latvia*, Liechtenstein*, Luxembourg*, Netherlands, New Zealand*, Norway*, Portugal*, Romania, Russian Federation, Rwanda*, Senegal*, Slovakia*, Slovenia*, Sweden, Switzerland and United Kingdom

Torture and other cruel, inhuman or degrading treatment or punishment

The Commission on Human Rights,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Recalling the Declaration on the Protection of All Persons from Being Subjected to Torture or Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling also the World Conference on Human Rights and its Vienna Declaration and Programme of Action, in particular part I, paragraph 30, in which the World Conference stated that, inter alia, torture and other cruel, inhuman and degrading treatment or punishment constituted serious obstacles to the full enjoyment of all human rights,

Recalling further part II.B.5 of the Vienna Declaration and Programme of Action concerning the eradication of torture,

Noting with appreciation that the number of States which have become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is steadily increasing,

Welcoming the establishment at the regional level, in accordance with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,

Seriously concerned, however, about the persistence of an alarming number of reported cases of torture and other cruel, inhuman or degrading treatment or punishment taking place in various parts of the world,

Recalling its resolution 1985/33 of 13 March 1985, in which it decided to appoint for one year a special rapporteur to examine questions relevant to torture, and all its subsequent resolutions in which that mandate was regularly extended, most recently for another three years in resolution 1992/32 of 28 February 1992, while maintaining the annual reporting cycle,

Welcoming a continuing exchange of views between the Special Rapporteur and the Committee against Torture, established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Working Group on Arbitrary Detention, and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as contacts with the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture,

Aware that torture constitutes a criminal obliteration of the human personality which can never be justified under any circumstances, by any ideology or by any overriding interest, and convinced that a society that tolerates torture can never claim to respect human rights,

Determined to promote the full implementation of the prohibition under international and national law of the practice of torture and other cruel, inhuman or degrading treatment or punishment,

Convinced that efforts to eradicate torture should first and foremost be concentrated on prevention,

Noting, in this regard, the importance of the provision of advisory services and technical assistance as forms of practical assistance to interested States with a view to enabling them to develop the necessary infrastructure to meet international human rights standards,

Recalling the Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment, adopted by the General Assembly in its resolution 37/194 of 18 December 1982, and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985,

Recalling also the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, approved by the General Assembly in its resolution 43/173 of 9 December 1988,

Recalling further the conclusions and recommendations of the previous Special Rapporteur underlined in its resolutions 1987/29 of 10 March 1987, 1988/32 of 8 March 1988, 1989/33 of 6 March 1989, 1990/34 of 2 March 1990, 1991/38 of 5 March 1991, 1992/32 of 28 February 1992 and 1993/40 of 5 March 1993,

1. Commends the Special Rapporteur on his report (E/CN.4/1994/31);

2 Urges all Governments to promote the speedy and full implementation of the Vienna Declaration and Programme of Action, in particular of the section relating to freedom from torture;

3. Stresses the recommendations of the previous Special Rapporteur, commended by the present Special Rapporteur for serious action by Governments, and in particular:

(a) Concerning the importance of instituting a system of periodic visits by independent experts to places of detention as a highly effective preventive measure against the occurrence of torture;

(b) That the judiciary should play an active role in guaranteeing to detainees the rights they have in accordance with international and national standards;

(c) That the right to have access to a lawyer is one of the basic rights of a person who is deprived of his liberty and that restrictions on this right should therefore be exceptional and always subject to judicial control;

(d) That each person should have the right to initiate promptly after his arrest proceedings before a court on the lawfulness of his detention, in conformity with the International Covenant on Civil and Political Rights;

(e) That interrogation of detainees should take place only at official interrogation centres, that each interrogation should be duly recorded and start with the identification of all the persons present and that the blindfolding or hooding of detainees during interrogation should be absolutely forbidden;

(f) Pertaining to the establishment at the national level of an independent authority able to receive complaints by individuals about torture or other severe maltreatment;

4. Recalls that incommunicado detention is highly conducive to torture and that in the Special Rapporteur's view incommunicado detention should be forbidden;

5. Recalls the recommendation of the previous Special Rapporteur that Governments and professional and medical associations should take strict measures against members of the medical profession who play a role in the practice of torture;

6. Endorses the recommendation of the previous Special Rapporteur that those who violate article 7 of the International Covenant on Civil and Political Rights, whether by encouraging, ordering, tolerating or perpetrating prohibited acts, must be held responsible and that whenever a complaint of torture is found to be justified, the perpetrators should be severely punished, especially the official in charge of the place of detention where the torture is found to have taken place;

7. Calls upon all States that have not yet done so to become as soon as possible parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and requests the Special Rapporteur to continue to promote universal accession to that Convention and to encourage all States to fulfil its provisions strictly;

8. Emphasizes the importance of training programmes for law enforcement and security personnel, and draws the attention of interested Governments to the possibilities offered in this connection by the United Nations programme of advisory services in the field of human rights;

9. Encourages the Special Rapporteur to make appropriate recommendations concerning situations in which advisory services to judicial, law enforcement, detention and other authorities might assist interested Governments in combating the occurrence of torture;

10. Urges the Secretary-General to make available, as part of the United Nations programme of advisory services in the field of human rights, qualified experts in law enforcement, detention and medicine to assist Governments, at their request, in their efforts to prevent the occurrence of torture;

11. Decides that the Special Rapporteur, in carrying out his mandate, shall continue to seek and receive credible and reliable information from Governments, the specialized agencies and intergovernmental and non-governmental organizations;

12. Approves the methods of work employed by the Special Rapporteur, in particular as regards urgent appeals;

13. Considers it desirable that the Special Rapporteur should continue to have a further exchange of views with the various mechanisms and bodies entrusted with the task of combating torture, in particular with a view to enhancing further their effectiveness and mutual cooperation, and that he should pursue cooperation with relevant United Nations programmes notably that on crime prevention and criminal justice;

14. Invites the Special Rapporteur, in carrying out his mandate, to bear in mind the need to be able to respond effectively to credible and reliable information that comes before him and to carry out his work with discretion;

15. Appeals to all Governments to cooperate with and assist the Special Rapporteur in the performance of his tasks and to supply all information requested, including by reacting properly to his urgent appeals;

16. Urges those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer expeditiously;

17. Regrets that in the past year no Government has invited the Special Rapporteur to visit its country;

18. Encourages Governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him to fulfil his mandate even more effectively;

19. Calls upon the Special Rapporteur to continue to include information in his report on the follow-up by Governments to his recommendations, visits and communications;

20. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur to cover all of his activities in order to enable him to submit his report to the Commission at its fifty-first session.

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